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COUNTY OF SISKIYOU,
CHRIS STOCK, and
RICHARD EVANS

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RENEE KLEP, individually and as
successor-in-interest to DARIN
KLEP, DECEDENT; A.K. a
minor by her guardian Ad Litem,
RENEE KLEP,

Plaintiffs,

vs.

COUNTY OF SISKIYOU; CITY OF
MT. SHASTA, a Municipal entity; CHRIS
STOCK, an individual; RICHARD EVANS,
an individual; WALTER MOORE, an
individual; and JUAN CASANOVA, an
individual

Defendants.

CASE NO.: 2:23-CV-00274-WBS-DB

DEFENDANTS COUNTY OF SISKIYOU,
RICHARD EVANS, AND CHRIS
STOCK'S ANSWER TO PLAINTIFF'S
COMPLAINT AND DEMAND FOR JURY
TRIAL

1 Defendants, COUNTY OF SISKIYOU, CHRIS STOCK, and RICHARD EVANS in
2 answer to Plaintiffs RENEE KLEP and A.K.'s Complaint for Damages, filed on February 14,
3 2023, admits, denies, and alleges as follows:

4 **PARTIES**

5 1. In response to paragraphs 1 and 2 of the Complaint, answering parties lack sufficient
6 information or belief to either admit or deny the allegations and therefore the allegations are
7 denied.
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9 3. In response to paragraphs 3 through 6 of the Complaint, answering parties admit the
10 allegations.
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12 7. In response to paragraphs 7 and 8 of the Complaint, answering parties lack sufficient
13 information or belief to either admit or deny the allegations and therefore the allegations are
14 denied.

15 9. In response to paragraph 9 of the Complaint, no factual allegations are asserted
16 requiring a response. To the extent factious allegations are made, said allegations are denied.
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18 **JURISDICTION/VENUE**

19 10. In response to paragraph 10 of the Complaint, answering parties admit the allegations
20 as to venue and jurisdiction founded upon the federal question asserted within the First Cause of
21 Action pursuant to 42 U.S.C. Section 1983. Unless specifically admitted, the remaining
22 allegations are denied.
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24 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

25 11. In response to paragraph 11 of the Complaint, answering parties admit the
26 allegation.
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FIRST CAUSE OF ACTION FOR DAMAGES FOR
DEPRIVATION OF CIVIL RIGHTS UNDER
42 U.S.C. SECTION 1983

12. In response to paragraph 12 of the Complaint, answering parties incorporate each and every prior response above as if set forth in full herein.

13. In response to paragraph 13 of the Complaint, answering parties admit the allegations.

14. In response to paragraph 14 of the Complaint, answering parties lack sufficient information or belief to either admit or deny the allegations and therefore the allegations are denied.

15. In response to paragraph 15 of the Complaint, answering parties admit Renee advised Darin was in the backyard with a firearm and that she said, in part, “But I don’t think he would want to harm anybody but himself.” Unless otherwise admitted, all remaining allegations are denied.

16. In response to paragraph 16 of the Complaint, answering parties admit Deputy Stock entered the backyard and positioned himself away of Darin; Officer Moore and Officer Casanova also entered the backyard on the left side as well with Deputy Stock; Deputy Evans positioned himself on the opposite side of the residence near a hot tub and then next to the residence. Unless otherwise admitted, all remaining allegations are denied.

17. In response to paragraph 17 of the Complaint, answering parties admit Darin was in the backyard lying on his backside with a handgun in his right hand pointed at his head; that law enforcement had their weapons drawn, with lights on, and at times pointing their weapons at

1 Darin; the precise distance of law enforcement from Darin is unknown. Unless otherwise
2 admitted, all remaining allegations are denied.

3 18. In response to paragraph 18 of the Complaint, answering parties admit Stock spoke
4 with Darin and at times his flashlight and/or firearm with light was aimed at Darin; Darin
5 demanded lights be removed. Unless otherwise admitted, all remaining allegations are denied.

6 19. In response to paragraph 19 of the Complaint, answering parties admit that at one
7 point, Stock responded, “I want to be able to see you, just like you can see us o.k.”. Unless
8 otherwise admitted, all remaining allegations are denied.

9 20. In response to paragraph 20 of the Complaint, answering parties deny the
10 allegations.

11 21. In response to paragraph 21 of the Complaint, answering parties admit to utilizing
12 their lights to illuminate Darin with the handgun in his hand. Unless otherwise admitted, all
13 remaining allegations are denied.

14 22. In response to paragraph 22 of the Complaint, answering parties admit Stock
15 attempted to engage Darin with communications, including, but not limited to the referenced
16 statements. Unless otherwise admitted, all remaining allegations are denied.

17 23. In response to paragraph 23 of the Complaint, answering parties admit that amongst
18 other communications, Stock stated that Darin needs to “relax” and that Darin demanded the
19 officers to turn off their “fucking” lights. Unless otherwise admitted, all remaining allegations are
20 denied.

21 24. In response to paragraph 24 of the Complaint, answering parties admit that while
22 holding the gun in his right-hand Darin’s upper torso begins to rise up from the ground. Unless
23 otherwise admitted, all remaining allegations are denied.

1 25. In response to paragraph 25 of the Complaint, answering parties admit that while
2 holding the gun in his right-hand Darin's upper torso begins to rise up from the ground. Unless
3 otherwise admitted, all remaining allegations are denied.

4 26. In response to paragraph 26 of the Complaint, answering parties admit the officers
5 fired their weapons striking Darin at multiple locations. Answering parties lack sufficient
6 information or belief at this time as to the number of times Darin was struck, nor the number of
7 rounds discharged by the officers and therefore denies these allegations. Unless otherwise
8 admitted, all remaining allegations are denied.

9 27. In response to paragraph 27 of the Complaint, answering parties admit law
10 enforcement attempted to communicate with Darin, the exact amount of time involved in the
11 communications prior to discharge of any firearm is unknown at this point. Unless otherwise
12 admitted, all remaining allegations are denied.

13 28. In response to paragraph 28 of the Complaint, answering parties deny the
14 allegations therein.

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17 **No Qualified Immunity**
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19 29. In response to paragraph 29 of the Complaint, answering parties admit training as
20 to seizures and excessive force and knowledge of Fourth Amendment rights. Unless so admitted,
21 all remaining allegations are denied or otherwise assert legal conclusions for which no response
22 is necessary.

23 30. In response to paragraphs 30 through 32 of the Complaint, answering parties deny
24 the allegations therein.
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**SECOND CAUSE OF ACTION FOR INTERFERENCE WITH THE
EXERCIS OF CIVIL RIGHTS IN VIOLATION OF THE BANE ACT**

[CALIFORNIA CIVIL CODE SECTION 52.1]

33. In response to paragraph 33 of the Complaint, answering parties incorporate each and every prior response above as if set forth in full herein.

34. In response to paragraph 34 of the Complaint, no factual allegations are asserted, only legal conclusions. To the extent factual allegations are asserted, said allegations are denied by answering parties.

35. In response to paragraphs 35 through 38 of the Complaint, answering parties deny the allegations

THIRD CAUSE OF ACTION FOR DAMAGES FOR BATTERY

39. In response to paragraph 39 of the Complaint, answering parties incorporate each and every prior response above as if set forth in full herein.

40. In response to paragraphs 40 through 45, answering parties deny the allegations.

FOURTH CAUSE OF ACTION FOR DAMAGES FOR NEGLIGENCE

46. In response to paragraph 46 of the Complaint, answering parties incorporate each and every prior response above as if set forth in full herein.

47. In response to paragraphs 47 through 51, answering parties deny the allegations.

**FIFTH CAUSE OF ACTION FOR DAMAGES FOR
NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

52. In response to paragraph 52 of the Complaint, answering parties incorporate each and every prior response above as if set forth in full herein.

53. In response to paragraphs 53 through 57, answering parties deny the allegations.

DAMAGES REQUEST

In response to Plaintiffs' claims for relief items 1 through 8 of the Complaint, answering parties deny each and every allegation and/or requested relief.

AFFIRMATIVE DEFENSES

1. As and for a First Affirmative Defense, DEFENDANTS are entitled to qualified immunity from liability.

2. As and for a Second Affirmative Defense, PLAINTIFFS fails to allege sufficient facts to warrant an award of punitive damages.

3. As and for a Third Affirmative Defense, PLAINTIFFS failed to state a cause of action upon which relief may be granted.

4. As and for a Fourth Affirmative Defense, PLAINTIFFS failed to mitigate damages.

5. As and for a Fifth Affirmative Defense, PLAINTIFFS are barred from recovery on their claims by the doctrines of unclean hands, waiver, consent, laches, and/or estoppel.

6. As and for a Sixth Affirmative Defense, PLAINTIFF lacks standing for which relief may be granted.

7. As and for a Seventh Affirmative Defense, DEFENDANTS are afforded and entitled to all rights, privileges, defenses and impunities afforded under and by virtue of the provisions of Government Code section 815 through 996.6 inclusive.

8. As and for an Eighth Affirmative Defense, decedent himself was guilty of carelessness, negligence, and/or intentional conduct with respect to the matters and things complained of, and that said conduct on decedent's own part proximately caused and contributed to the happening of the incident in question.

1 9. As and for a Ninth Affirmative Defense, DEFENDANTS allege that their liability,
2 if any, shall be in proportion to their fault, if any, pursuant to Civil Code section 1431.2 for non-
3 economic damages, if any, awarded to Plaintiffs.

4 10. As and for a Tenth Affirmative Defense, Plaintiffs' claims are barred by the statute
5 of limitations.

6 11. As and for an Eleventh Affirmative Defense, at the time and place of the incident
7 in question, decedent was aware of, knew, and fully appreciated the risks inherent in said matters
8 and things, and with such awareness, knowledge and appreciation, fully and voluntarily assumed
9 said inherent risks.

10 12. As and for a Twelfth Affirmative Defense, decedent consented to the conduct of
11 Defendants alleged in the Complaint.

12 13. As and for a Thirteenth Affirmative Defense, DEFENDANTS are afforded and
13 entitled to all rights, privileges, defenses and impunities afforded under and by virtue of the
14 provisions of the Penal Code, including, but not limited to Section 835 thereof.

15 14. As and for a Fourteenth Affirmative Defense, Plaintiffs lack standing to assert the
16 causes of action and/or claims alleged.

17 15. As and for a Fifteenth Affirmative Defense, DEFENDANTS responded in self-
18 defense and/or in defense of others.

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22 **PRAYER FOR RELIEF**

23 1. That PLAINTIFFS take nothing by their Complaint;

24 2. That DEFENDANTS be awarded their costs and attorneys' fees with respect to this
25 action; and

26 3. For such other relief as this Court determines to be just and equitable.

DEMAND FOR JURY TRIAL

DEFENDANTS demand that this matter be tried by and before a jury to the extent provided by law.

Dated: March 22, 2023

MAIRE & DEEDON

/s/ Patrick L. Deedon

PATRICK L. DEEDON

TRACEY A. WERNER

Attorneys for Defendants,

COUNTY OF SISKIYOU,

CHRIS STOCK AND RICHARD EVANS

Re: *Renee Klep, et al. vs. County of Siskiyou, et al.*
Eastern District Case No. 2:23-CV-00274-WBS-DB

CERTIFICATE OF SERVICE

I am a citizen of the United States and employed in Shasta County, California at the office of a member of the bar of this Court at whose direction this service was made. I am over the age of 18 and not a party to the within action; my business address is 2851 Park Marina Drive, Suite 300, Redding, California 96001.

On March 22, 2023, I served the document(s) **DEFENDANTS COUNTY OF SISKIYOU, RICHARD EVANS, AND CHRIS STOCK'S ANSWER TO PLAINTIFF'S COMPLAINT AND DEMAND FOR JURY TRIAL** on the interested parties in this action as stated below:

SEE ATTACHED SERVICE LIST

 (BY MAIL): I deposited such envelope in the mail at Redding, California with postage fully prepaid. I am readily familiar with this firm's practice of collection and processing correspondence for mailing. Under that practice it would be placed for collection and mailing, and deposited with the U.S. Postal Service on the same day with postage thereon fully prepaid at Redding, California, in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than 1 day after date of deposit for mailing in affidavit.

 (VIA OVERNIGHT MAIL): I deposited such envelope to be placed for collection and handling via FED EX following our ordinary business practices. I am readily familiar with this business practice for collecting and processing correspondence for FED EX. On the same day that material is placed for collection, it is picked up by FED EX at Redding, California.

 (VIA ELECTRONIC MAIL): By transmitting a true copy of thereof to the electronic mail addresses as indicated below.

 (BY HAND DELIVERY): I caused to be delivered by hand each sealed envelope to the addressee(s) mentioned in the attached service/ mailing list.

 X **(BY CM/ECF SERVICE)**: I caused such document(s) to be delivered electronically via CM/ECF as noted herein.

I declare under penalty of perjury under the laws of the United States that the above is true and correct and was executed on March 22, 2023, at Redding, California.

/s/ Lisa Morrison
LISA MORRISON

1 Re: *Renee Klep, et al. vs. County of Siskiyou, et al.*
2 Eastern District Case No. 2:23-CV-00274-WBS-DB

3
4 **SERVICE LIST**

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12 **RENEE KLEP and A.K.**
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